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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 191 and 192

[Docket No. PHMSA-2019-0131]

Pipeline Safety: Farm Taps Frequently Asked Questions

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Announcement of frequently asked questions; request for comments.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) is making available for comment a set of proposed frequently asked questions (FAQs) regarding individual service lines directly connected to production, gathering, or transmission pipelines, commonly referred to as farm taps. The proposed FAQs address the applicability of the Federal Pipeline Safety Regulations and include guidance related to the Exercise of Enforcement Discretion Regarding Farm Taps published in the Federal Register on March 26, 2019.

DATES: Persons interested in submitting comments on the proposed farm tap FAQs must do so by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by docket number PHMSA-2019-0131, by any of the following methods:

- *E-Gov Web:* <http://www.regulations.gov>. This site allows the public to enter comments on any Federal Register notice issued by any agency. Follow the online instructions for submitting comments.
- *Mail:* Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* DOT Docket Management System: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except federal holidays.
- *Fax:* 202–493–2251.
- *Instructions:* Identify the docket PHMSA–2019-0131, at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.regulations.gov>.
- *Privacy Act:* DOT may solicit comments from the public regarding certain general notices. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.
- *Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this document contain commercial or financial information that is customarily treated as private, that you

actually treat as private, and that is relevant or responsive to this document, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential”; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under FOIA, and they will not be placed in the public docket of this document. Submissions containing CBI should be sent to Sayler Palabrica at DOT, PHMSA, PHP-30, 1200 New Jersey Avenue SE, PHP-30, Washington, DC 20590-0001.

Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

- *Docket:* For access to the docket to read background documents or comments received, go to [http:// www.regulations.gov](http://www.regulations.gov). Follow the online instructions for accessing the dockets. Alternatively, you may review the documents in person at the street address listed above.

FOR FURTHER INFORMATION CONTACT:

General: Mr. Sayler Palabrica by telephone at 202-366-0559, or email at sayler.palabrica@dot.gov.

Technical: Mr. Chris McLaren by telephone at 281-216-4455, or email at chris.mclaren@dot.gov.

SUPPLEMENTARY INFORMATION: PHMSA provides written clarification of the pipeline safety regulations (49 CFR Parts 190-199) in the form of FAQs and other guidance materials. PHMSA is requesting public comment on a set of proposed FAQs intended to clarify, explain, and promote better understanding and implementation of the requirements in Parts 191 and 192 with respect to individual service pipelines directly connected to transmission, gathering, or production pipelines. These facilities are typically located in rural areas and are commonly known as “farm taps.”

These proposed FAQs reflect PHMSA’s current application of the regulations to the specific implementation scenarios presented. However, there are many situations and configurations in which farm taps exist in gas pipeline systems, and individual FAQs cannot account for all possible scenarios. Operators may request written regulatory interpretations from PHMSA regarding specific situations in accordance with § 190.11.

FAQs are provided to help the regulated community understand how to comply with the regulations, but they are not substantive rules themselves and do not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. However, an operator who is able to demonstrate compliance with the FAQs is likely to be able to demonstrate compliance with the relevant regulations. If a different course of action is taken by a pipeline operator, the operator must be able to demonstrate that its conduct is in accordance with the regulations.

On January 23, 2017, PHMSA published a final rule titled “Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Pipeline Safety Changes” in the Federal Register (82 FR 7972). This final rule, effective March 24, 2017, excepted individual service lines directly connected to a transmission, gathering, or production pipeline from the distribution

integrity management program (DIMP) regulations at § 192.1003(b). Instead, PHMSA added § 192.740, requiring periodic inspection and maintenance for pressure-regulating, limiting, and overpressure protection devices on individual service lines directly connected to production, gathering, or transmission pipelines. PHMSA adopted this approach after working with stakeholders to best identify how to address risks to the integrity of farm taps in an appropriate and cost-effective manner.

After the publication of the rule, industry stakeholders commented that PHMSA had underestimated the costs of compliance with the new § 192.740 farm tap inspection requirements, and that existing DIMP requirements, in conjunction with other current requirements such as § 192.723(b)(2) leak surveys, could provide an equivalent level of safety. As part of DOT's regulatory review process, PHMSA is considering changes to the requirements for maintaining pressure-regulating, limiting, and overpressure protection devices on farm taps in the future.

On March 26, 2019, PHMSA issued an Announcement of Enforcement Discretion (84 FR 11253) that provides operators with the flexibility to address the safety of pressure control, limiting, and overpressure protection devices on farm taps under either § 192.740 or their DIMP, as specified by § 192.1003 prior to its revision.

To help operators better understand the applicability of § 192.740 and other issues related to farm taps, PHMSA is issuing these proposed FAQs. PHMSA invites interested parties to review the proposed FAQs and submit written comments, data, or other information. Other topics addressed in the proposed FAQs include how to determine if a farm tap is regulated; reporting requirements for distribution services from an unregulated source pipeline; the applicability of operation and maintenance requirements; regulatory definitions; the applicability

of certain requirements to existing facilities; testing requirements; and other Part 192 requirements. When finalized, these FAQs will supersede FAQ C.3.7 in the Distribution Integrity Management Frequently Asked Questions document at: <https://www.phmsa.dot.gov/pipeline/gas-distribution-integrity-management/gas-distribution-integrity-management-faqs>.

The proposed FAQs and other supporting documents are available online on the Federal eRulemaking Portal, <https://www.regulations.gov>; search for Docket No. PHMSA-2019-0131. Before finalizing the proposed FAQs, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated to the extent practicable. Once finalized, PHMSA's FAQs will be posted on PHMSA's public website at <https://www.phmsa.dot.gov>.

Issued in Washington, DC, on April 9, 2020, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

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